

REMARKS

The Applicant is filing this Amendment and Response in response to an Office Action dated March 12, 2010. At the time of the Office Action, claims 1-16 and 18-22 were pending. In response to the Office Action, the Applicant has amended claims 1, 18, and 20, canceled claims 10 and 22. No new matter has been added by way of these amendments. Upon entry of the amendments, claims 1-9 and 11-21 remain pending. Based on the foregoing amendments and the following remarks, the Applicant respectfully asserts that all pending claims are in condition for allowance.

In the Office Action, the Examiner indicated that claims 10-17, 19, and 21 contain allowable subject matter. Further, the Examiner rejected claims 1-9, 18-20, and 22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,748,361 to Comerford, et al. (hereinafter “Comerford”). This rejection is discussed in detail below.

Allowable Subject Matter

The Applicant gratefully acknowledges the Examiner’s recognition of allowable subject matter in claims 10-16, 19, and 21. *See* Office Action, p. 2. Further, the Applicants thank the Examiner for indicating that Claims 11-17, 19, and 21 are allowed. *See id.*

As a preliminary matter, the Applicants respectfully note that claim 10 was indicated as containing allowable subject matter in the Response to Arguments section, but was not mentioned further in the Office Action. *See* Office Action, p. 2. The material in claim 10 was directed to the dialog metrics that the Examiner indicated were allowable over the prior art. *See id.* Accordingly, the Applicants consider that claim 10 should have been objected to, but would be considered allowable if rewritten in independent format.

Further, although the Applicant does not concede the correctness of the Examiner's position, the Applicant has amended the claims as set forth above to place the application in condition for allowance. Specifically, independent claims 1, 18, and 20 have been amended to incorporate the subject matter that was indicated as allowable by the Examiner (for example, as previously recited in claim 10). Therefore, the Applicant respectfully asserts that claims 1, 18, and 20 are allowable. As claims 2-9 depend from claim 1, they are allowable for the same reasons.

Claim Rejection under 35 U.S.C. § 102(e)

Based on the incorporation of the allowable subject matter into all of the independent claims and the cancellation of claim 22, the Applicant respectfully asserts that the rejection of claims 1-9, 18-20, and 22 under 35 U.S.C. § 102(e) is now moot. Thus, in view of the amendments discussed above, the Applicant respectfully requests the Examiner withdraw the rejection of claims 1-9 and 18-20 and allow the claims to issue.

Conclusion

The Applicant respectfully asserts that all pending claims are in condition for allowance. However, if the Examiner wishes to discuss any issue regarding the present

application by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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